Jesuit Legal Education: Focusing the Vision

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"[W]e . . . must give testimony to the reality that virtue is passionate, fundamentally human, intensely satisfying and integrating, and, perhaps most important for our society today, simply that virtue is possible."¹

In today's mainstream of legal education, to claim a religious orientation is to become suspect.² Religiously-affiliated law schools are suspected of being less than rigorous in their academic programs, compromising in their approach to intellectual and academic freedom, and insensitive to the value of diversity, among other things.³ It is frequently suggested that a law school cannot be both prominent and religious at the same time, and that there is no appropriate role for religion in the law school.⁴ Many prestigious law schools that were religiously-affiliated at their founding are no longer so affiliated. Most religiously-affiliated law schools are religious in official affiliation only; religion rarely works its way into the life of the law school.

At the same time, noticeable levels of "spiritual" malaise exist among law students and lawyers. Many law students are morally troubled and dismayed by what they encounter in law school, and students are often more concerned about social issues when they enter law school than when they graduate.⁵ Knowledgeable and respected legal educators lament the

* Director of the Law Library and Assistant Professor of Law, Marquette University Law School. I would like to express my appreciation to Father James J. Conn, S.J. and Professor Anthony J. Fejfar for their thoughtful comments on an earlier version of this essay. The views expressed in this essay should not be attributed to the students, faculty, or administration of Marquette University, or to the Society of Jesus. They are the opinions of one participant in Marquette's academic enterprise who considers the objectives and goals of the Jesuit tradition worthy of pursuit.

2. By the "mainstream," I refer to what some might call the "establishment," or "the powers that be" within contemporary American legal education. They are the faculties of the prominent law schools that dominate the Association of American Law Schools (A.A.L.S.) and the American Bar Association's (A.B.A.) Section of Legal Education and Admissions to the Bar.
"ordinary religion" of the contemporary law school classroom that is characterized by "a moral relativism tending toward nihilism, a pragmatism tending toward an amoral instrumentalism, a realism tending toward cynicism, an individualism tending toward atomism, and a faith in reason and democratic processes tending toward mere credulity and idolatry."6

An increasing number of lawyers express dissatisfaction with their careers,7 and complaints are heard about the decline of professionalism within the legal profession.8 The public continues to be generally unhappy with lawyers. They are perceived as "hired guns" or "social engineers" who are insensitive to the human needs of clients, and who show little concern for the social order.9 Justice seems to be defined merely in terms of procedures and formalities.10

This essay is premised on the belief that a religious orientation is compatible with quality in legal education, and, for some law schools, can help provide definition to the concept of quality. Furthermore, the educational tradition perpetuated by the Society of Jesus, the religious order commonly called the Jesuits, provides insight on how the "ordinary religion" of the law school classroom might be minimized and how law schools might send "good" lawyers into the world who are better prepared to confront the difficult moral and ethical problems they will encounter.11 After some general observations about the religious orientation of Jesuit and Catholic law schools and a partial historical explanation for this state of affairs, this essay will identify and discuss five essential characteristics of the Jesuit educa-

6. Cramton, The Ordinary Religion of the Law School Classroom, 29 J. LEGAL EDUC. 247, 262 (1978). Cramton does not use the term "religion" in a theological sense. Rather, he uses it to refer to the unarticulated (and usually unexamined) value system of legal education. "It includes not only the more or less articulated value systems of law teachers but also the unarticulated value assumptions communicated to students by example or by teaching methods, by what is not taught, and by the student culture of law schools." Id. at 248. As former dean of the Cornell Law School, past president of the Association of American Law Schools and former editor of the Journal of Legal Education, Cramton is well qualified to express an opinion about the mainstream of legal education.


10. Id. at 104.

11. See Wasserstrom, supra note 5.
tional tradition that are relevant to legal education, characteristics which should distinguish Jesuit law schools from the mainstream.

**JESUIT LAW SCHOOLS**

In the simplest sense, a Jesuit law school is any law school that has some type of formal relationship with the Society of Jesus and that claims to be a part of the spiritual and educational tradition that originated with Saint Ignatius of Loyola, the sixteenth century Spanish nobleman-turned-priest who founded the Jesuits.12

Since its founding in 1540, educational and missionary works have been the two preferred apostolates of the Society of Jesus.13 Ironically, the original purposes of the Society did not include education. Ignatius wanted the Jesuits to be free to move wherever the need was greatest; he was convinced that institutions, such as schools, would tie the Jesuits down and prevent mobility.14 Ignatius was, however, persuaded by his companions that education was an effective means for human and spiritual development, and he included educational principles in the Jesuit constitutions.15 By the time of his death in 1556, Ignatius had personally approved the founding of forty schools.16 Although the original purpose of the schools was to train Jesuits, this was expanded to include non-Jesuit students as well. Except for the period from 1773 to 1814, during which time the Society was suppressed by the Pope, there has been a steady growth in the number of Jesuit schools. Today, there are over 2,000 Jesuit educational institutions. Ten thousand Jesuits work in close collaboration with approximately 100,000 lay people, providing education for more than 1.5 million students in fifty-six countries.17 Among them are thirteen American law schools.18

Although all Jesuit schools were once staffed and controlled by Jesuits, today's Jesuit universities are autonomous institutions run by independent

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14. Id. at 61.
15. Part IV of the Jesuit constitutions is generally considered to be the explicit thought of Ignatius on education, even though it was largely completed before he realized the extensive role education was to play in the work of the Jesuits. Id. at 62.
16. Id.
17. Id. at 66.
18. The following Jesuit universities maintain law schools: Boston College, Creighton University, University of Detroit, Fordham University, Georgetown University, Gonzaga University, Loyola Marymount University, Loyola University of Chicago, Loyola University of New Orleans, Marquette University, St. Louis University, University of San Francisco, and Santa Clara University.
The entire academic community is responsible for the work of the university and both Jesuits and lay people contribute their experiences of spirituality, family, social, and political life, as well as expertise in academic and administrative areas.

The thirteen Jesuit law schools in the United States are as different and diversified as law schools can be; thus it is difficult to make generalizations about them. All of these law schools are parts of universities that are members of the Association of Jesuit Colleges and Universities, but they are independent of each other. The law schools were founded between 1870 and 1929 and are primarily located in large cities. They vary greatly in size and they have very few Jesuit teachers on their faculties. Significant numbers of students, faculty, and administrators at Jesuit law schools are neither Catholic nor Christian. With the exception of occasional elective courses and extra-curricular activities, Jesuit law schools show relatively

19. The statutes of each university define the authority of the Society of Jesus. For example, the bylaws of Marquette University provide:

The University shall be governed as an independent private corporate entity of the State of Wisconsin, conducted under the auspices, and consonant with the educational principles, of the Society of Jesus.

The governing board of the University shall consist of twenty-nine (29) elected Trustees, of whom eight (8) shall be members of the Society of Jesus, including the President and Vice President of the University, who shall be Trustees ex officio with full voting powers.

Amended Bylaws of Marquette University (as amended through December 9, 1989).

20. In recent years, a developed theology has explicitly recognized and encouraged the apostolic role of lay people in the church; this was ratified by the Second Vatican Council . . . . [R]ecent General Congregations of the Society of Jesus have insisted on lay-Jesuit collaboration, through a shared sense of purpose and genuine sharing of responsibility, in school once exclusively controlled and staffed by Jesuits.

21. In 1843, Saint Louis University, a Jesuit university, became the first Catholic college to teach courses in law. In 1869, non-Jesuit Notre Dame established the first permanent Catholic law school. E.J. Power, A HISTORY OF CATHOLIC HIGHER EDUCATION IN THE UNITED STATES 250 (1958). In 1870, Georgetown became the first Jesuit college to establish a law school, followed by Creighton, 1904; Fordham, 1905; Marquette, St. Louis, Loyola-Chicago, 1908; Santa Clara, 1911; San Francisco, Detroit, 1912; Gonzaga, 1913; Loyola-New Orleans, 1914; Loyola-Los Angeles, 1920; and Boston College, 1929. Id. at 253.

The Milwaukee Law School was founded in 1892; it was taken over by Marquette in 1908. Marquette degrees were awarded retroactively to Milwaukee Law School graduates who had been admitted to the bar. R.N. Hamilton, The Story of Marquette University 84 (1953).

22. It is interesting to note that, in the original constitution of the Society of Jesus, Ignatius stated: "The study of . . . laws, being rather remote from our Institute, will not be taught in the universities of the Society, or at least the Society will not undertake this activity through its own members." CONSTITUTIONS OF THE SOCIETY OF JESUS, pt. IV, ch. 12, sec. 4, in G.E. Ganss, St. Ignatius' Idea of a Jesuit University: A Study in the History of Catholic Education 322 (1954).
little objective evidence of their religious affiliation. For the most part, Jesuit law schools, and most Catholic law schools for that matter, are virtually indistinguishable from their secular counterparts.\textsuperscript{23}

Depending on one's perspective, these comments might be either compliments or criticisms. They are compliments if interpreted to mean that Jesuit law schools have become full participants in the mainstream of legal education, such that they have diversified student bodies and faculties, and are not forced to defend themselves against charges of sectarianism. They are criticisms if they suggest that the schools have little connection to their Jesuit, Catholic, or Christian traditions.

Although each Jesuit law school has a unique history, general historical studies suggest that many of the Catholic law schools faced similar problems and concerns at their founding, and encountered similar pressures as they developed.\textsuperscript{24} An understanding of these factors can help explain some of the current characteristics of these law schools, particularly those characteristics related to their religious orientation.

Jesuit universities started law schools for reasons that were ultimately theological, but were also manifestly sociological and political. The Roman Catholic Church had a great legal tradition grounded in natural law, Thomistic philosophy, and canon law. The Jesuits, and other Catholic educators, felt that they could make important contributions to the law and to society.\textsuperscript{25} These educators realized that "the legal profession played such an important role in national life, [and] Catholic colleges were anxious to participate in preparing members of this profession."\textsuperscript{26}

American Catholic colleges also started law schools because they sought recognition as true universities; graduate and professional schools were needed to claim this stature. When compared with medical schools and engineering schools, law schools were relatively inexpensive and easy to add. Classroom space, a relatively small library, and access to a few law teachers (who could also be practitioners) were all that were needed.

\textsuperscript{23} See Nelson, \textit{God and Man at the Catholic Law School}, 26 CATH. LAW. 127, 139 (1981). "Their curricula rarely contain any distinctively Catholic course offerings and the institutions do not give any evidence of fostering an active Catholic spiritual life. With a few exceptions . . . Catholic law schools have become progressively secular and now offer distinctively non-Catholic attributes." \textit{Id.}


\textsuperscript{25} E.J. Power, \textit{supra} note 21, at 249.

\textsuperscript{26} \textit{Id.}
Furthermore, Catholic universities started law schools in reaction to the significant levels of nativism and anti-Catholic prejudice that existed at the end of the nineteenth and the beginning of the twentieth centuries.27 "Catholics were smeared as foreigners, whose final loyalty was to the Pope, and as persons who could not be trusted with any degree of power or influence."28 By establishing law schools, Catholic universities provided opportunities for the upward mobility of Catholics and other immigrants who either could not afford, or were otherwise excluded from law schools.29

These were Catholic law schools in the sense that Catholics went to them, and went with a sense of being involved in the common enterprise of getting a share of the aristocratic power that American lawyers enjoy. Students in them were not learning about their faith; they were getting ahead. They were not studying Aquinas or Augustine or Pope Leo's encyclical on social justice; they were studying casebooks, written at Harvard, Yale, and Columbia, just like everybody else. If these educational communities were religious, it was because they sometimes provided convenient religious services for their Catholic students and, occasionally, a chaplain to talk to.30

Whatever religious motivations existed for their founding, Catholic law schools, from the beginning, were pushed toward secularization by their faculties, by their reactions to prejudice, and by their desire to become a part of the mainstream of legal education.31

In order to achieve status, Catholic law schools tried to attract teachers who had some reputation in the law. In some cases this meant appointing non-Catholics to the law faculty and the consequent anomaly which resulted from such a practice: the school was committed to purveying a Catholic philosophy of law, but its wisest and most prominent teachers were neither intellectually nor emotionally equipped for this task. Because the heritage of Catholic schools of law was so meager and so brief, legal scholars and teachers who were Catholics were not easy to find. Usually the law schools attracted a judge or a well-known lawyer to teach the courses in law .... Most legal faculties were part-time .... 32

29. Id. at 130; Goodchild, supra note 24, at 385.
30. Shaffer, supra note 24, at 670.
32. E.J. POWER, supra note 21, at 249.
Catholic law schools were able to achieve a high degree of independence from their parent universities. The law school was often self-supported by tuition and was successful at fund raising. The law faculty was rarely willing to integrate itself into the life and work of the university. Consequently, it was impractical for university administrators to control the law school in the same way that they controlled other departments and colleges of the university.\[33\]

Catholic law schools wanted to be fully accredited participants in the mainstream of legal education, but the anti-Catholicism of the period caused these schools to defend themselves against charges of sectarianism and pressured them to adopt secular models of legal education.\[34\]

This prejudice was manifested in the efforts of the American Bar Association and the Association of American Law Schools to professionalize the bar and to standardize legal education.\[35\] Many of the Catholic law schools offered evening programs to attract students who could not attend law school during the day or on a full-time basis. However, the opening of the legal profession to the offspring of immigrants through part-time education exposed these schools to criticism from the bar, which did not want the legal profession put into the melting pot.\[36\] As one scholar noted: “The foreign-born, grouped in urban areas and swarming into the night law schools in those cities, were perceived as a distinct threat to professional values based upon Anglo-Saxon Protestant culture.”\[37\]

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33. Id. at 249-50.
34. It is ironic that the same anti-Catholic forces tended to serve as sources of unity among Catholic colleges, enabling them to develop and maintain their religious identities. W.L. La Croix, The Jesuit Spirit of Education: Ignatius, Tradition, and Today’s Questions 73 (1989).
35. The nativist prejudices were not only against Catholics, but were also against Jews and all other immigrants. Immigrants were seen to undermine the American way of life. For further discussion of the attempts of the establishment to control legal education, see R. Stevens, Law School: Legal Education in America from the 1850s to the 1980s 92-103 (1983).

Marquette early gained a reputation as a school where ambitious sons of immigrants, with minimal formal schooling and limited financial resources, could better their future by studying law at night. . . . Marquette men argued that their school operated in the finest democratic tradition of keeping the legal profession open to talent from all economic strata.

Id. at 141-42.

Wisconsin Law School Dean Richards warned his colleagues at the AALS annual meeting in 1915 that night law schools enrolled “a very large proportion of foreign names. Emigrants [sic] . . . covet the title [of attorney] as a badge of distinction. The result is a
The A.B.A. and the A.A.L.S., in turn, "strove for higher standards to keep out... 'the poorly educated, the ill-prepared, and the morally weak candidates,'" and to eliminate "'their common enemy: The night law schools and the immigrants who crowded into them.'" "Considering such schools inferior, the associations’ leadership sought to close them. The ardor of their efforts intensified as these schools achieved spectacular growth compared to the accredited law schools." Paradoxically, the mainstream of which the Catholic law schools sought to become a part represented the antithesis of their tradition. By the end of the nineteenth century, legal education had become fully secularized. Law was perceived as a self-contained science, independent of religion; law and values were completely separated. Before that time, law was thought to have a religious dimension; law was related to divine providence and there was a divinely inspired order to the universe. When legal and religious values were separated, however, religion became a private affair separated from the law. In the 1920s, legal realism began to dominate American legal education.

Legal realism sees law as simply a means to implement whatever social values and behavior are desired by a society at any given time. Realists therefore reject the idea of permanent rules or principles.
that have authority to determine what ought to be the outcome of a
given case. Rather, they say, the outcome of a case depends largely,
if not entirely, on the predilections of the judge who happens to be
deciding it.44

The roots of legal realism were in the legal positivism of the nineteenth
century.45 Under positivist theory, the law had little to do with morality
and could, legitimately, promote what is immoral.46 The law is the law.
The law has no reference point other than itself. That which is within the
law is presumably permissible; that which is not within the law is presuma-
bly not permissible. To the extent that values are involved, they are individ-
ualistic preferences that are not intrinsic to the law.47

Given the prejudices of the times and the pressures that existed to join
the mainstream of legal education that was grounded in secularism, positiv-
ism, and realism, it is easy to understand why Jesuit and other Catholic law
schools adopted secular models of legal education and placed little empha-
sis on their religious traditions.48 Furthermore, if positivism, realism, and
secularism are perceived to continue — albeit with modifications and refine-
ments — to dominate the mainstream of legal education, it is also easy to
understand why patterns that were set in the early years persist.49

A VISION OF JESUIT LEGAL EDUCATION

Other than having a corporate relationship with the Society of Jesus,
what should it mean to be a “Jesuit” law school? What should it mean to
reflect the spirit of Ignatius and to be a part of the Jesuit educational tradi-
tion? It need not mean that students are taught a distinctively Catholic

44. Id.
45. Id. at 81.
46. Id. at 82.
47. Id. at 83.
48. Realists and positivists both see the nature of law to be law as it is and not law as it ought
to be. Positivists, however, usually abstract from the values of what is going on in a given
society, whereas realists, while acknowledging and even stressing the relationship between
law and social values, scrupulously abstain from any critical judgment on these values.

Id. at 81.
49. Law schools, of course, have not been immune from the sociological patterns of American
society. For an overview of the debate over whether American society has become more secular-
ized, see G. BAUM, RELIGION AND ALIENATION: A THEOLOGICAL READING OF SOCIOLOGY
140-61 (1975).

Id. at 81.
48. There have been occasional attempts to develop a distinctively Catholic approach to legal
education which would focus on natural law and jurisprudence and would provide a Catholic
environment for students. See generally Brown, Jurisprudential Aims of Church Law Schools in
the United States, A Survey, 13 NOTRE DAME LAW. 163 (1935); Brown, The Place of the Catholic
Law School in American Education, 5 U. DET. L.J. 1 (1941); Clarke, The Problem of the Catholic
Law School, 3 U. DET. L.J. 160 (1940); Goodchild, supra note 24, at 405-07 (1988).
approach to law,° that the faculty produces legal scholarship from a Catholic perspective,51 or that students and faculty are predominantly Catholic. It should have little to do with crucifixes on classroom walls, law school liturgies, or having priests as teachers. In fact, it need not mean that the structure of the curriculum, the standards for scholarship, the diversity of the students and faculty, and other objective attributes are significantly different from any other mainstream law school.

Claiming to be a part of the Jesuit educational tradition should mean, rather, that a distinctive spirit marks the Jesuit law school which, on a subjective level, distinguishes it from the mainstream. The distinctive spirit refers to the way of proceeding: the inspiration, motivation, values, attitudes, and style which affect the teaching, scholarship, and environment of the law school.53

At the most essential level, five characteristics should mark the spirit of Jesuit legal education. In summary form, Jesuit legal education must be: (1) conducted in a religious context; (2) value-oriented; (3) person-centered; (4) broad-based and inter-disciplinary; and (5) devoted to excellence.54 These characteristics can be discussed separately, but must be considered as a whole because it is the synergism of principles that creates the distinctive approach to education. This discussion, which is stated in ideal terms, is not intended to describe any of the Jesuit law schools. Hopefully, each Jesuit law school will recognize its own characteristics in the description.

50. Elective courses that explore the relationship between law and theology, and cover subjects such as ethics, canon law, and church-state relations, however, are certainly appropriate.

51. This type of scholarship, however, should be fostered by the Jesuit law school. For examples of contemporary Catholic legal scholarship, see R.E. Rodes Jr., LAW AND LIBERATION (1986); Fejfar, Insight into Lawyering: Bernard Lonergan's Critical Realism Applied to Jurisprudence, 27 B.C.L. Rev. 681 (1986); and Fejfar, In Search of Reality: A Critical Rationalist Critique of John Rawls' A Theory of Justice, 9 St. Louis U. Pub. L. Rev. 227 (1990).

52. This is certainly not to denigrate these characteristics for they can add much to the life of the law school; it is only to say that they should not be viewed as the essence of Jesuit education. Some might argue, however, that absent these attributes a law school cannot claim to be "Catholic," thus assuming a Catholic law school to be one in which a distinctively Catholic approach to law is taught, where Catholics come together as Catholics to teach and learn the law, and where Catholic counseling and religious activities are readily available. Obviously Jesuit legal education is, by definition, Catholic legal education, and, as far as I can determine, there is nothing in the model that I describe that is inconsistent with Catholicism. However, the model probably does not go as far as many traditionalists would like. Whether a more particularistic model is desirable, or feasible, is a subject worthy of continued discussion.


54. These categories were suggested by Rev. Robert A. Mitchell, S.J., President of the University of Detroit, in his address at the Boston College Alumni Association's 1988 Laetare Sunday Breakfast, October 13, 1988. Mitchell, What It's All About: The five traits of Jesuit education, B.C. Mag., Fall 1989, at 19.
JESUIT LEGAL EDUCATION

1. Jesuit legal education must exist in a religious context.

For Ignatius, God is Creator and Lord, Supreme Goodness, the one Reality that is absolute; all other reality comes from God and has value only insofar as it leads us to God. This God is present in our lives, "laboring for us" in all things: He can be discovered, through faith, in all natural and human events, in history as a whole, and most especially within the lived experience of each individual person.55

Religion should permeate the program of the Jesuit law school. But in contrast to the "ordinary religion" of the mainstream, this form of religion is more than merely a system of unarticulated and unexamined value assumptions. It is, moreover, a faith that the God of Israel lives and works in the world and calls believers to articulate, evaluate, critique, and act upon their assumptions and values.

This religious dimension is at the same time the most fundamental and the most problematic characteristic for Jesuit law schools. It is the most fundamental because it is the characteristic from which other characteristics flow. It provides the motivation for the participants and the foundation upon which the program is built. Without considering the religious context in which the law school exists, the other characteristics and goals of the law school lack coherence.

The religious dimension is also the most problematic characteristic. Because the law school is a professional school (therefore obligated to teach designated disciplines and skills) with a diverse and pluralistic student body and faculty (including significant numbers of non-Catholics, non-Christians, and non-believers),56 the religious mission of the law school must be addressed with great care, sensitivity, and subtlety.

As an academic and professional community with the primary mission of teaching, studying, and learning about the law, a Jesuit law school will go about its work in a particular way. Because it is not primarily a religious community, full participation in the law school community must not be conditioned upon adherence to particular religious beliefs. This does not mean that religious beliefs are unimportant in the law school, for surely the

55. THE CHARACTERISTICS OF JESUIT EDUCATION 17 (1987). "The world view of Ignatius is centered on the historical person of Jesus Christ .... He is alive in our midst and remains the Man for others in the service of God." Id. at 27. Jesuit education proposes Christ as the model of human life. Id.

56. "Students and teachers in Jesuit schools today come from a variety of distinct social groups, cultures and religions; some are without religious faith. Many Jesuit schools have been deeply affected by the rich but challenging complexity of their educational communities." Id. at 13.
opposite is true. Nor does it mean that Catholics should refrain from practicing their religion or from pursuing the implications of their faith. Rather, it means that on an institutional level, religion must be presented in a way that brings people of various beliefs together to appreciate their common values and goals. "The purposes and ideals of members of other faiths can be in harmony with the goals of the Jesuit school and they can commit themselves to these goals for the development of the students and for the betterment of society." In the Jesuit law school, religion must be a force for unity.

2. Jesuit legal education must be value-oriented.

Among the characteristics of the "ordinary religion" of the mainstream law school classroom is the belief that "[c]are should be taken to insure that affirmations of value (our desires concerning what ought to be) do not intrude upon thought and knowledge and fact concerning what is." According to the mainstream, the law school classroom should be neutral and value-free. In the absence of a mode of proof or verification, an assertion cannot be taken as true.

Although, "[a] skeptical attitude toward generalizations, principles and rules is doubtless a desirable attribute of the lawyer," this skepticism too often "deepens into a belief in the meaninglessness of principles, the relativism of values or the non-existence of an ultimate reality." In short, in the mainstream law school classroom, value-skepticism and value-nihilism often predominate. Law teachers typically avoid the explicit discussion of values, and confront fundamental issues by avoiding them.

57. Id. at 35.
58. Cramton, supra note 6, at 249.
59. Id.
60. Id. at 253.
61. Id. at 256. Cramton lists some of the factors that contribute to value skepticism and nihilism:

"1. Ethical positivism—the doctrine that the espousal of given values is not rationally defensible. Value judgments, unlike judgments of fact, are merely 'boos' (if negative) or 'hurrahs' (if positive)."

"2. Crude relativism—the doctrine that 'since values vary the world over, no values are really the best or even have any kind of special claim on us.'"

"3. Deterministic futilitarianism—the doctrine that the values we hold are the result of social conditioning and it is futile to try to do very much about improving on them for they are among our most basic 'can't helps.'"

"4. Pseudo-Freudianism—'we really don't know what our real values are, so they cannot figure very importantly in our conscious planning.'"

"5. Misplaced libertarianism—'a person is free to adopt any value position.'"

"6. Misplaced egalitarianism—'one person's values are equal to the values of another.'"

"7. The possessory theory of truth—'my values are right because I hold them.'"
Jesuit education is value-oriented; therefore, Jesuit legal education must challenge the mainstream.\textsuperscript{62} Religiously-affiliated law schools are expected to be concerned with issues of ethics and professional responsibility, but a value-orientation is much more than developing the professional responsibility curriculum. Value-orientation means developing an awareness of the moral and ethical implications of the law and a methodology for approaching problems from a moral perspective. This methodology includes the ability to reason reflectively, logically, and critically,\textsuperscript{63} to discover prejudice and limited vision on the one hand, and to evaluate relative goods and competing values on the other.\textsuperscript{64}

Our goal, stated simply, is to facilitate growth in the life of virtue . . . . [T]o avoid moral paralysis in the face of conflict, it is desirable that a person have the ability to set aside certain values when they must, in fact, cede to others, or better, to be able to realize as many of the values as possible in a given situation.\textsuperscript{65}

"[T]here is no aspect of education, not even the so-called hard sciences, which is neutral. All teaching imparts values . . . ."\textsuperscript{66} Values are not the exclusive domain of moralists; they are the proper domain of any academic discipline.\textsuperscript{67} Values are inherent in the law because law is an effort to regulate, apportion, and enforce values. Even the attempt to separate values from the law is a statement about the importance of the values involved.

Many of the problems that arise in discussions about how to integrate values into the law school classroom result from confusion and misunderstanding about what it means to provide value-oriented education. Those who are skeptical of value-oriented legal education typically interpret it as suggesting that there are specific values—Christian values, Catholic values, humanistic values, for example—to be taught and learned, and that there are "correct answers" based on these values to the moral and ethical questions that come up in the course of learning the law. Hence, the student

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\textsuperscript{Id. at 254 (quoting R.S. Summers, \textit{Mimeographed Materials on Jurisprudence and the Legal Process}, Cornell Law School, January 1977, at 4-5).}

\textsuperscript{62. It must be noted that individuals within the mainstream have been seriously concerned with the issue of how to best integrate the discussion of values into the law school curriculum. See, for example, the symposium entitled \textit{Ethics in Academia: Power and Responsibility in Legal Education}, 34 J. LEGAL EDUC. 155-228 (1984).}

\textsuperscript{63. \textbf{THE CHARACTERISTICS OF JESUIT EDUCATION} 18 (1987). The ability to reason reflectively includes the ability to take into account deep feelings, to use the imagination, and to dialogue with the community of judgment. \textit{See} Fejfar, \textit{Legal Education and Legal Scholarship: From Rationalist Discourse to Dialogical Encounter}, 19 CAP. U.L. REV. 97 (1990).}

\textsuperscript{64. \textbf{THE CHARACTERISTICS OF JESUIT EDUCATION} 25 (1987).}

\textsuperscript{65. Pollock, \textit{supra} note 1, at 71.}

\textsuperscript{66. Kolvenbach, \textit{Themes of Jesuit University Education} 19 ORIGINS 83 (1989).}

\textsuperscript{67. Pollock, \textit{supra} note 1, at 70.}
would be taught the Catholic, or at least that teacher's, response to problems. There is little wonder that most law teachers are unwilling to engage in this pedagogy.

Simply put, value-oriented education should not require the law teacher to indoctrinate students with either moral principles or the correct answers to specific problems. Rather, it requires acknowledging that the subject of values has a place in the law school classroom, thereby dispelling the delusion that by avoiding a discussion of values the resulting model of law is neutral and value-free.

The refusal to indoctrinate students with principles, applications, and answers, however, does not mean that specific values should not be brought into the classroom and preferred over others. Furthermore, there are at least three core values which are so basic to Christian ethics that they must be considered inherent themes of Jesuit education so as to set the context for discussion.

First, the dignity of the individual must be given the highest priority. Each man and woman is personally known and loved by God, and the human effects of every encounter and transaction must be considered and evaluated. For lawyers, this basic value will influence relationships with clients and relationships with other lawyers. It shows a concern with how we treat people and for how our actions, and the law itself, affect people.

Second, a commitment to justice, which is premised on the dignity of the human person, must be pervasive. Justice issues are no longer issues merely of political balance, competitive group interest, and legal prudence. They are issues of faith. They are issues of love. Housing, food, clothing, prison, and distribution of wealth are not some merely liberal programmatic.


69. Id. at 31. Justice has been defined as the virtue which renders to each his or her own. D. MAGUIRE, A NEW AMERICAN JUSTICE 57 (1980). Catholic social teaching identifies three dimensions of basic justice. Commutative, or individual, justice "calls for fundamental fairness in all agreements and exchanges between individuals or private social groups." NATIONAL CONFERENCE OF CATHOLIC BISHOPS, BUILDING ECONOMIC JUSTICE 21 (1986) (emphasis in original). "Distributive justice requires that the allocation of income, wealth, and power in society be evaluated in light of its effects on persons whose basic material needs are unmet." Id. at 22 (emphasis in original).

Social justice implies that persons have an obligation to be active and productive participants in the life of society and that society has a duty to enable them to participate in this way. This form of justice can be called "contributive," for it stresses the duty of all who are able to help create the goods, services, and other nonmaterial or spiritual values necessary for the welfare of the whole community. Id. (emphasis in original).
They are the very criteria against which the final moral evaluation of men and women will be made.70

The people, policies, and programs of the Jesuit law school must give concrete witness to justice, and give counter-witness to the values of the consumer society.71 The commitment is not merely to legal, or formal, justice, but to fundamental fairness in individual and corporate affairs and to equitable distribution of resources and opportunities.

Third, Jesuit legal education must promote a special concern, or a "preferential option," for the poor and disadvantaged. This includes those without economic means, the handicapped, the marginalized, and all those who are, in any sense, unable to live a life of full human dignity.72

The reason we must do this is not that the poor are more valuable in God's eyes than other people. They just need more help. Also—and this is the most important point for . . . teachers and scholars—they are less visible. We are so far the victims of false consciousness that we will not notice the poor unless we go out of our way to do so. If we set out to deal evenhandedly between rich and poor, we will inevitably end up favoring the rich. If we set out to do no more for the poor than justice requires, we will end up doing less.

. . . [W]e must steadily ask . . . what effect legal transactions have on the people underneath them. How does our real estate law affect people who need places to live? How does our law on corporate mergers affect working people and their families? How does our criminal justice system affect the ability of the urban poor to walk


72. Id. at 33. The concern for the poor should extend beyond the classroom to the admissions and recruitment policies of the law school.

The recruitment of students must include special efforts to make a Jesuit education possible for the disadvantaged. But let it be noted and let there be no misunderstanding: The option for the poor is not an exclusive option, it is not a classist option. We are not called upon to educate only the poor, the disadvantaged. The option is far more comprehensive and demanding, for it calls upon us to educate all—rich, middle class and poor—from a perspective of justice. Ignatius wanted Jesuit schools to be open to all; the Gospel reveals that the love of God is universal. Given the special love we have for the poor, we educate all social classes so that young people from every stratum of society may learn and grow in the special love of Christ for the poor.

Kolvenbach, supra note 66, at 85-86.
out on their streets? How does the first amendment affect their ability to teach their children to live decent lives?\textsuperscript{73}

Although the application of values to specific cases must be open to discussion and debate, questions like these, and the values that give rise to them, reflect the essence of value-oriented legal education in the Jesuit law school. Values must always be proper subjects for discussion in the classrooms of Jesuit law schools. Students should be encouraged to identify and, if necessary, challenge the values that are inherent in the law. Teachers must be people of values, and if they are not comfortable talking about their own values, they have, at a minimum, the obligation to point out that values are at stake.

3. Jesuit legal education must be person-centered.

God is especially revealed in the mystery of the human person, “created in the image and likeness of God”; Jesuit education, therefore, probes the meaning of human life and is concerned with the total formation of each student as an individual personally loved by God. The objective of Jesuit education is to assist in the fullest possible development of all of the God-given talents of each individual person as a member of the human community.\textsuperscript{74}

Jesuit education insists on individual care and concern for each person, and assists in the total formation of each individual.\textsuperscript{75} The purpose of the educational process is the formation of balanced men and women with personally developed philosophies of life\textsuperscript{76} who will put their beliefs and attitudes into practice throughout their lives.\textsuperscript{77}

\textit{Cura personalis}, or concern for the individual person, is reflected both inside and outside of the classroom.\textsuperscript{78} Teachers in Jesuit law schools should focus on students rather than on academic disciplines. This distinction is more than a semantic one; it is a matter of educational philosophy.

Attention must be given to the personal needs of students. There should be an understanding that the law school experience can be a difficult one. It is a time when values are challenged, self-esteem is jeopardized, family relations are strained, competition is accentuated, and pressures are increased. The Jesuit law school must recognize that the individual is of primary im-

\begin{itemize}
\item \textsuperscript{73} Shaffer & Rodes, \textit{A Christian Theology for Roman Catholic Law Schools}, 14 U. DAYTON L. REV. 1, 17 (1988).
\item \textsuperscript{74} \textit{The Characteristics of Jesuit Education} 17-18 (1987) (emphasis in original).
\item \textsuperscript{75} Id. at 17.
\item \textsuperscript{76} Id. at 19.
\item \textsuperscript{77} Id. at 30.
\item \textsuperscript{78} Id. at 22.
\end{itemize}
importance and must be provided as much personal attention and support as is humanly possible.79

A concern for the individual does not mean that the academic program is either soft or less rigorous, that standards are lowered, or that skills and competencies are compromised. It means, rather, that rigor and strength are applied at the proper times and in the correct places, and that all efforts are directed toward helping the student achieve his or her maximum potential.

4. Jesuit legal education must be broad-based and inter-disciplinary.

Jesuit secondary schools, colleges, and universities have traditionally insisted upon liberal, or diversified, educational programs regardless of what specializations might be offered.80 Similarly, the academic program of the law school must be broad-based and diversified. By requiring a wide range of subjects and discouraging narrow specialization, the curriculum should provide a liberal education in the law and a range of perspectives. It must explore the history and theory of law, as well as the economic, political, and social effects of the law on society. Because most future legal problems are yet to be identified, and because competence will be determined both now and in the future, students must be taught to be open to a lifetime of growth and learning.81

As part of a university, the law school's understanding of law must be informed by the university's other disciplines such as theology, philosophy, science, economics, business, sociology, psychology, languages, politics, and history. No "single academic discipline can legitimately pretend to offer comprehensive solutions to real questions like those concerning genetic research, corporate takeovers, definitions concerning human life—its start and its end, homelessness and city planning, poverty, illiteracy, developments in medical and military technology, human rights, the environment and artificial intelligence."82 All of the resources of the university must be brought to bear on the law's questions.

5. Jesuit legal education must strive for excellence.

Jesuit law schools, like all law schools, must seek quality in their educational programs and set demanding standards for students and faculty.83

80. Id.
82. Kolvenbach, supra note 66, at 84.
83. Mitchell, supra note 54, at 19.
For the Jesuit law school, however, the motivation for excellence is a matter of religious commitment. "Repeatedly, Ignatius insisted on the 'magis'—the more.... The concrete response to God must be 'of greater value.'" The essential activities of the law school—teaching and scholarship—must be done well. Indeed, "only excellence is apostolic." Jesuit education aims "at ever greater, more profound, more universal service."

The "more" of which Ignatius spoke requires the ongoing evaluation of goals, programs, resources, and methods in an effort to be more effective, and the creation of an environment in which excellence is demanded and promoted. It does not imply that excellence is determined simply by comparison with the mainstream. Rather, it suggests taking from the mainstream the appropriate objective standards that it can provide—going beyond them when necessary—without permitting the mainstream to undermine and subvert the distinctive and authentic, and admittedly subjective, aspects of the law school.

CONCLUSION

Karl Llewellyn, one of the great law teachers of the twentieth century, is quoted to have said: "Compassion without technique is a mess; and technique without compassion is a menace." In the last analysis, the purpose of Jesuit legal education must be to train lawyers of competence and conscience who can relate to the human needs of their clients, who are professionally and socially responsible, and who are willing and able to confront the contemporary legal culture.

The disciplined and professional transmission and acquisition of knowledge is never enough of a goal in any classroom. It is always a required goal, but it is never the only goal. What makes any educational tradition distinctive are the other goals it has and how these other goals shape the acquisition of knowledge. The Jesuit tradition has been that its other goals are discerned from what is needed in any period for graduates to affect their world with the spirit of Ignatius. And these goals are not tacked on, but are directly expressed and met in the way of proceeding toward the acquisition of knowledge in a subject.
In the Jesuit tradition it is impossible to teach law "without conveying to the students, at least indirectly, a context of how the subject matter fits into human life in society and, consequently, how the subject matter fits into the goals of human life itself."\(^{92}\)

Merely claiming a religious purpose will not make the education provided in the law school more virtuous; it is only through the attitudes and actions of the students, faculty, and administration that such a purpose can be realized. The Jesuit educational tradition is not the only way to achieve these goals, but the Jesuit tradition does provide an authentic vision that can give direction and meaning to the enterprise.

\(^{92}\) Id. at 65-66.